

J.M.



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/800,131	03/06/2001	Mark A. Weakly	UNL 3043	3820

321 7590 12/24/2002

SENNIGER POWERS LEAVITT AND ROEDEL  
ONE METROPOLITAN SQUARE  
16TH FLOOR  
ST LOUIS, MO 63102

EXAMINER

CHRISTMAN, KATHLEEN M

ART UNIT	PAPER NUMBER
----------	--------------

3713

DATE MAILED: 12/24/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

3 M

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/800,131	WEAKLY, MARK A.	
	Examiner	Art Unit	
	Kathleen M Christman	3713	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____   |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>2</u> | 6) <input type="checkbox"/> Other:  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 2, 4, and 8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The use of the alternative "and/or" is indefinite and does not clearly define the scope of the claim.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. Claims 1-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pellegrino et al (US 6149441) in view of Leshmen et al (US 5870559). Pellegrino et al teaches a web-based learning system

Art Unit: 3713

including a series of linked web pages, as in claim 1. This includes a beginning page that is linked to a course selection page (course unit), which is further linked to the pages containing educational material on the subject (as in claims 10-12), see Figures 3-8. Pellegrino et al teaches form of user tracking in the discussion of "Navigation elements" those teaching the need to track user progress through a web-based education program, but teaches the specific details as in claims 1-4, 6-8, and 13-14.

Leshmen et al teaches a software tracking system which track's a user's progress through a series of linked pages and creates a history file of the pages visited, said history file remotely stored on a server for independent access, see col. 3:10-18, as per claim 1. The system includes the ability to display the site map to a user of the system based on the history file, as in claim 2, where in the sitemap is generated by a web-crawler program (col. 2: 8-10), as in claim 3. The site-map being color coded, as per claim 4, is taught in col. 2: 66 - col. 3: 5. Regarding claims 6 and 7, a tree view of the of the URL structure within the site-map is taught in col. 2: 30-35, and an outline view is taught in col. 16: 48-52. Annotations, as in claim 8, are taught at col. 3: 1-2. The URL being stored in the history file, as in claim 13, is taught at col. 28: 23-28. Regarding claim 14, this concept is demonstrated in Figure 4.

Given Pellegrino's teachings of the need for tracking software in an educational program it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the tracking system of Leshmen et al into the web-based educational system of Pellegrino et al so as to provide an accurate mean for tracking a user's progress through the educational content.

The limitation of claims 16 and 17 are fully encompassed in the discussion of claim 1 above and are rejected for the same reasons.

Regarding claim 15, neither Pellegrino et al nor Leshmen et al directly teaches that the tracking software is a java applet. It is the examiner's position that the specific language in which one chooses to program is a matter of design choice and bares no patentable weight.

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


Art Unit: 3713

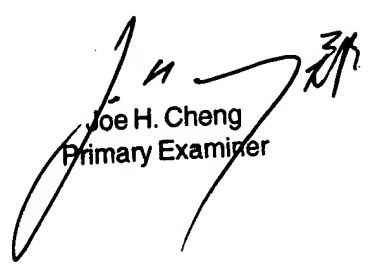
- a. McManus et al (US 6408315 B1) teaches the use of tracking software in CBT systems
- b. Miles et al (US 6102406) teaches a system for tracking a user's progress through a series of HTML pages
- c. Ho et al (US 6398556 B1) teaches a system which tracks a user's progress in a CBT system

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kathleen M Christman whose telephone number is (703) 308-6374. The examiner can normally be reached on M-F 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Valencia Martin-Wallace can be reached on (703) 308-4119. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

  
Kathleen M. Christman  
December 18, 2002

  
Joe H. Cheng  
Primary Examiner